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UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA

TC RICH, LLC *et al.*,  
*Plaintiffs,*  
 v.  
 PACIFICA CHEMICAL  
 INCORPORATED, *et al.*,  
*Defendants.*

Case No. 2:15-cv-4878-DMG(AGR<sub>x</sub>)  
 JOINT STATUS REPORT  
 Assigned to Judge Dolly M. Gee  
 Action filed: June 26, 2015  
 Discovery cut-off: None set  
 Trial date: None set

AND RELATED CROSS-ACTIONS

This case has been stayed pending further environmental investigation activities pursuant to the Order Re Litigation Stay (ECF No. 90) and the subsequent Status Conference held on January 26, 2018 (collectively, “Stay Order”). Plaintiffs TC Rich, LLC, Rifle Freight, Inc., Fleischer Customs Brokers, Richard G. Fleischer, and Jacqueline Fleischer (“Plaintiffs”), Plaintiff-Intervenor 13301 S. Main Street, LLC (“Intervenor”), and Defendant Pacifica Chemical Incorporated (“Pacifica”) (collectively, the “Parties”) file this Joint Status Report to inform the Court of the Parties’ progress in settlement negotiations and the environmental investigation.

**I. BACKGROUND**

Plaintiffs are the current owners and occupants of the real property located at



1 located at 132 West 132nd Street, Los Angeles, (the “Property”). In their Complaint,  
2 Plaintiffs allege that the soil, soil vapor, indoor air, and groundwater at the Property  
3 is contaminated with tetrachloroethylene, also known as perchloroethylene (“PCE”).  
4 Plaintiffs further allege that Pacifica is liable for the contamination under the  
5 Comprehensive Environmental Response, Compensation, and Liability Act  
6 (“CERCLA”), 42 U.S.C. §§ 9607. Pacifica filed a Counterclaim asserting Plaintiffs  
7 were liable as the current owners of the Property. Later, Plaintiff-Intervenor filed a  
8 Complaint-In-Intervention alleging that the contamination had migrated onto its  
9 adjacent property and that both Plaintiffs and Pacifica were liable.

10 On June 7, 2017, the Parties attended the Second Settlement Conference with  
11 Magistrate Judge Gandhi where a framework for a prospective settlement was  
12 developed. Key to the settlement was evaluating perceived data gaps by installing  
13 additional groundwater wells and obtaining approval of a Removal Action Workplan  
14 (“RAW”) from the Department of Toxic Substances Control (“DTSC”).

## 15 **II. STATUS OF ENVIRONMENTAL INVESTIGATION**

16 At the end of July 2018, the final Remedial Action Workplan (“RAW”) was  
17 submitted to DTSC. Completion of the RAW was delayed as a result of multiple  
18 rounds of comments by DTSC. After four submittals, DTSC was finally satisfied  
19 and public participation notices sent. On September 27, 2018 DTSC participated on  
20 a call to relay the results of the comment period. One comment from Intervenor was  
21 determined by DTSC to have merit, which was that an addition SVE well should be  
22 added to the design, located near the northwest corner of its building. DTSC required  
23 a RAW Addendum for the additional well, which was submitted and approved by  
24 DTSC on October 10, 2018. Formal RAW approval is required to proceed with the  
25 pilot test portion of the RAW, which will provide the data necessary to estimate  
26 cleanup costs and settle this case. DTSC requires an Facility-Initiated Corrective  
27 Action (“FICA”) before approving the RAW. Pacifica provided a draft FICA  
28 agreement to Plaintiff on July 5, 2018 and has followed up multiple times to obtain



1 Plaintiff's comments and approval. Thus, although the wells for the pilot test have  
2 been installed, final approval to proceed with the pilot test is pending RAW approval;  
3 pending the FICA agreement. Thus, the investigation is at a standstill.

4 A minimum of eight months is necessary to complete the pilot test once RAW  
5 approval is received.

### 6 **III. SCHEDULING CONFERENCE**

7 Given the above, Pacifica requests the Court order Plaintiffs to provide  
8 comments and approval on the FICA agreement within three weeks. The Parties will  
9 file a joint status report on November 9, 2018 regarding the status of the FICA  
10 agreement. The Parties request that the Court set a further status conference for  
11 November 16, 2018, but if the status report states that a signed FICA agreement has  
12 been reached, the status conference can be reset to July 26, 2018 with a joint status  
13 report to be filed one week in advance. Meanwhile, the Parties request that the Stay  
14 Order remain in place.

15 Finally, the Parties request permission to appear at the October 26, 2018 status  
16 conference via telephone.

17 DATED: October 19, 2018

PALADIN LAW GROUP® LLP

19 */s/ Bret A. Stone*

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21 Bret A. Stone  
22 Counsel for Defendant Pacifica Chemical  
23 Incorporated

24 DATED: October 19, 2018

RAINES FELDMAN LLP

26 */s/ John S. Cha*

27 \_\_\_\_\_  
28 John S. Cha  
Steven T. Gebelin  
Counsel for Plaintiffs



1  
2  
3 DATED: October 19, 2018

FOLEY & LARDNER LLP

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5 /s/ *Tony Tootell*

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Sarah A. Slack

7 Tony Tootell

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